



April 8, 2009

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## ENGROSSED HOUSE BILL No. 1498

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DIGEST OF HB 1498 (Updated April 6, 2009 5:53 pm - DI 73)

**Citations Affected:** IC 5-10.2; noncode.

**Synopsis:** Public pensions. Reduces from 15 to ten the number of years of creditable service that an active member of the public employees' retirement fund must earn for a surviving spouse or surviving dependent to receive a survivor benefit. Makes the change retroactive to January 1, 2007. Requires the fund to make a reasonable effort to notify certain surviving spouses or surviving dependents of changes made by this act. Provides a "thirteenth check" amount for TRF members, survivors, and beneficiaries.

**Effective:** Upon passage; January 1, 2007 (retroactive); July 1, 2009.

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### Ruppel, Niezgodski, Truitt, Goodin

(SENATE SPONSORS — KRUSE, HEAD, TALLIAN, DILLON)

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January 14, 2009, read first time and referred to Committee on Ways and Means.  
February 19, 2009, amended, reported — Do Pass.  
February 23, 2009, read second time, ordered engrossed. Engrossed.  
February 25, 2009, read third time, passed. Yeas 91, nays 0.

SENATE ACTION

March 3, 2009, read first time and referred to Committee on Pensions and Labor.  
March 26, 2009, reported favorably — Do Pass; reassigned to Committee on Appropriations.  
April 7, 2009, amended, reported favorably — Do Pass.

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EH 1498—LS 6896/DI 116+



April 8, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1498

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007,  
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.5. (a) **This subsection**  
4 **applies to members who die after March 31, 1990, and before**  
5 **January 1, 2007.** A surviving dependent or surviving spouse of a  
6 member who dies in service is entitled to a survivor benefit if:  
7 ~~(1) the member dies after March 31, 1990;~~  
8 ~~(2)~~ **(1)** the member has:  
9 (A) at least ten (10) years of creditable service, if the member  
10 died in service as a member of the general assembly;  
11 (B) at least fifteen (15) years of creditable service, if the  
12 member died in service in any other position covered by the  
13 retirement fund; or  
14 (C) at least ten (10) years but not more than fourteen (14)  
15 years of creditable service if the member:  
16 (i) was at least sixty-five (65) years of age; and  
17 (ii) died in service in a position covered by the teachers'

EH 1498—LS 6896/DI 116+



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retirement fund; and

~~(3)~~ **(2)** the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)**.

**(b) This subsection applies to members who die after December 31, 2006. A surviving dependent or surviving spouse of a member who dies is entitled to a survivor benefit if:**

**(1) the member has:**

**(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;**

**(B) at least ten (10) years but not more than fourteen (14) years of creditable service if the member was at least sixty-five (65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or**

**(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and**

**(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).**

~~(b)~~ **(c)** If a member described in subsection (a) **or (b)** dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

**(1) fifty (50) years of age; or**

**(2) the actual date of death;**

whichever is later. However, benefits payable under this subsection are subject to subsections ~~(c)~~ **(f)** and ~~(g)~~ **(h)**.

~~(c)~~ **(d)** If a member described in subsection (a) **or (b)** dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

**(1) fifty (50) years of age; or**

**(2) the actual date of death;**

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall

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be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections ~~(e)~~ (f) and ~~(g)~~ (h).

~~(d)~~ (e) Except as provided in subsections ~~(e)~~ (f) and ~~(h)~~ (i), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter to the extent of the lump sum payment.

~~(e)~~ (f) If a member described in subsection (a) or (b) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, the surviving spouse or dependent

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is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

~~(f)~~ (g) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection ~~(c)~~ (f);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

~~(g)~~ (h) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

~~(h)~~ (i) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

~~(i)~~ (j) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

~~(j)~~ (k) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 2. IC 5-10.2-3-7.6, AS AMENDED BY P.L.99-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.6. (a) This section applies to the surviving spouse and the surviving dependent of a member who:

(1) dies after June 30, 1996;

(2) has at least thirty (30) years of creditable service; and

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(3) dies in service in a position covered by the fund.

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the board may determine that the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g)~~; **section 7.5(f) and 7.5(h) of this chapter.**

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the board may determine that the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) on the date the dependent becomes eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g)~~; **section 7.5(f) and 7.5(h) of this chapter.**

SECTION 3. [EFFECTIVE JULY 1, 2009] (a) **As used in this SECTION, "fund" refers to the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.**

(b) **Not later than October 1, 2009, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was**

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1 disabled before January 1, 2009, and who is entitled to receive a  
 2 monthly benefit on July 1, 2009. The amount is not an increase in  
 3 the pension portion of the monthly benefit.

4 (c) The amount paid under this SECTION to a member of the  
 5 fund (or to a survivor or beneficiary of a member) who meets the  
 6 requirements of subsection (b) is determined as follows:

| 7 If a Member's Creditable                   | The Amount Is: |
|--|----------------|
| 8 Service Is:                                |                |
| 9 At least 5 years, but less than 10 years   | \$150          |
| 10 (only in the case of a member receiving   |                |
| 11 disability retirement benefits)           |                |
| 12 At least 10 years, but less than 20 years | \$275          |
| 13 At least 20 years, but less than 30 years | \$375          |
| 14 At least 30 years                         | \$450          |

15 (d) The creditable service used to determine the amount paid to  
 16 a member (or a survivor or beneficiary of a member) under this  
 17 SECTION is the creditable service that was used to compute the  
 18 member's retirement benefit under IC 5-10.2-4-4 except that  
 19 partial years of creditable service may not be used to determine the  
 20 amount paid under this SECTION.

21 (e) This SECTION expires January 1, 2010.

22 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) The definitions  
 23 in IC 5-10.2 apply to this SECTION.

24 (b) The fund must make a reasonable effort to:

25 (1) identify a surviving spouse or surviving dependent of a  
 26 member who:

27 (A) died after December 31, 2006;

28 (B) had at least ten (10) years of creditable service; and

29 (C) was not eligible for a survivor benefit under  
 30 IC 5-10.2-3-7.5, before its amendment by this act, but is  
 31 eligible for a survivor benefit under IC 5-10.2-3-7.5, after  
 32 its amendment by this act; and

33 (2) notify an individual described in subdivision (1) of changes  
 34 made by this act.

35 The fund is considered to have made a reasonable effort to notify  
 36 a surviving spouse or surviving dependent of changes made by this  
 37 act if the fund mails notification of changes made by this act to the  
 38 member's last known address.

39 (c) Notwithstanding IC 5-10.2-3-7.5(k), as amended by this act,  
 40 a surviving spouse or a surviving dependent who qualifies for a  
 41 survivor benefit under IC 5-10.2-3-7.5(c) or IC 5-10.2-3-7.5(d),  
 42 both as amended by this act, for a member described in subsection

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- 1 (b), who died after December 31, 2006, may claim the survivor  
2 benefit on or before the later of the following:  
3 (1) June 30, 2009.  
4 (2) The date the survivor benefit is forfeited to the member's  
5 retirement fund under IC 5-10.2-3-7.5(k), as amended by this  
6 act.  
7 (d) This SECTION expires January 1, 2010.  
8 SECTION 5. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1498, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 3. IC 5-10.2-5-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 44. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2009, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:**

(1) before July 2, 2001, shall be increased by two percent (2%); and

(2) after July 1, 2001, and before July 2, 2007, shall be increased by one percent (1%).

**(b) The increases specified in this section:**

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1498 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 21, nays 0.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1498, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is made to House Bill 1498 as printed February 20, 2009.)

KRUSE, Chairperson

Committee Vote: Yeas 9, Nays 2.

## COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill No. 1498, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 8 through 12, begin a new line double block indented and insert:

**"(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;**

**(B) at least ten (10) years but not more than fourteen (14) years of creditable service if the member was at least sixty-five (65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or**

**(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and".**

Page 4, delete lines 30 through 42, begin a new paragraph and insert:

"SECTION 2. IC 5-10.2-3-7.6, AS AMENDED BY P.L.99-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.6. (a) This section applies to the surviving spouse and the surviving dependent of a member who:

(1) dies after June 30, 1996;

(2) has at least thirty (30) years of creditable service; and

EH 1498—LS 6896/DI 116+



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(3) dies in service in a position covered by the fund.

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the board may determine that the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty-five (55) years of age; or
- (2) the actual date of death;

whichever is later. However, benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g)~~; **section 7.5(f) and 7.5(h) of this chapter.**

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the board may determine that the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty-five (55) years of age; or
- (2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) on the date the dependent becomes eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g)~~; **section 7.5(f) and 7.5(h) of this chapter.**

**SECTION 3. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "fund" refers to the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.**

**(b) Not later than October 1, 2009, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was**

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disabled before January 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2009. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

| If a Member's Creditable Service Is:  | The Amount Is: |
|---|----------------|
| At least 5 years, but less than 10 years<br>(only in the case of a member receiving disability retirement benefits) | \$150          |
| At least 10 years, but less than 20 years   | \$275          |
| At least 20 years, but less than 30 years   | \$375          |
| At least 30 years   | \$450          |

(d) The creditable service used to determine the amount paid to a member (or a survivor or beneficiary of a member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) This SECTION expires January 1, 2010."

Delete page 5.

Page 6, delete lines 1 through 10.

Page 6, line 18, delete "an active or inactive member of the fund;" and insert "**not eligible for a survivor benefit under IC 5-10.2-3-7.5, before its amendment by this act, but is eligible for a survivor benefit under IC 5-10.2-3-7.5, after its amendment by this act;**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to EHB 1498 as printed March 27, 2009.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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